

BOB ANTHONY
Commissioner

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Commissioner

CODY L. GRAVES
Commissioner

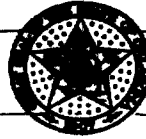
OKLAHOMA

Corporation Commission

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Office of General Counsel



Lawrence R. Edmison, General Counsel

April 11, 1996

William Caton, Acting Secretary
Federal Communications Commission
1919 M. Street
Washington, D.C. 20554

APR 12 1996
FCC MAIL ROOM

RE: **CC Docket No. 96-45**

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Please find enclosed an original and four (4) copies of the comments prepared by the Oklahoma Corporation Commission regarding the above-entitled docket. The Oklahoma Corporation Commission, having submitted these comments timely, requests that they be filed and made a part of the record in the above-entitled docket.

We have also forwarded a copy of the comments to the Federal Communication Commission's copy contractor, International Transcription Service, and a copy of the comments on computer diskette (WordPerfect 5.1, 3½ disk) to Ms. Ernestine Creech.

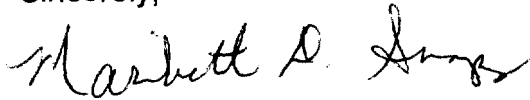
The Oklahoma Corporation Commission appreciates the opportunity to participate in this rulemaking. Any future correspondence concerning this rulemaking should be sent to:

Maribeth D. Snapp
Deputy General Counsel
Oklahoma Corporation Commission
P.O. Box 52000-2000
Oklahoma City, OK 73152

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Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Maribeth D. Snapp". The signature is fluid and cursive, with the first name being the most prominent.

Maribeth D. Snapp
Deputy General Counsel

cc: International Transcription Service
1990 M Street, N.W., Room 640
Washington, D.C. 20036

Ms. Ernestine Creech
Federal Communications Commission
Common Carrier Bureau
Accounting and Audits Division
2000 L Street, N.W., Suite 257
Washington, D.C. 20554

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

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FCC 96-93

In the Matter of

Federal-State Joint Board on
Universal Service

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CC Docket No. 96-45

**NOTICE OF PROPOSED RULEMAKING AND
ORDER ESTABLISHING JOINT BOARD**

Adopted: March 8, 1996:

Released: March 8, 1996



**INITIAL COMMENTS
OKLAHOMA CORPORATION COMMISSION**

Submitted: April 12, 1996

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INTRODUCTION

In recognition of the requirements imposed by the Telecommunications Act of 1996 ("Act"), and in response to the Federal Communication Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NOPR") captioned "In the matter of Federal State Joint Board on Universal Service in CC Docket No. 96-45", the Oklahoma Corporation Commission ("OCC") seeks to enter comments in support of the 1996 Act's universal service goals.

In its efforts to provide timely comments, the OCC primarily relies on and is guided by its past experiences in addressing funding mechanisms for high-cost service areas, to the extent that our experience might be useful in assisting the Joint Board and the FCC in interpreting and effectuating the new federal statutory mandates.

Oklahoma has more than forty (40) local telephone companies. The two largest companies provide telecommunications services to the majority of the end-users in our four primary metropolitan areas, and also, along with one large telephone cooperative, serve the majority of the rural areas. The remainder of the rural areas, comprising approximately 6% of the total number of access lines in Oklahoma, are served by small cooperative and independent telephone companies. This has necessitated developing mechanisms to subsidize the provisioning of service in rural, high cost areas. The exact nature of these mechanisms has been modified as the industry has evolved. The OCC expects the evolution and necessary modifications to continue. To begin to address the future need and design for support mechanisms, the OCC recently adopted rules for local competition, RM 9500000019, which established a universal service fund. Additionally, a rulemaking

concerning universal service and universal service funding on a state level has recently been filed.

Although Oklahoma has some state programs which are a step toward achieving the universal service goals expressed in the Act, some of these state programs are limited in their duration and scope. Therefore, the continuation of the federal universal service fund is necessary to accomplish the complete goals of the Act.

(1) QUALITY AND RATES. -- Quality service should be available at just, reasonable, and affordable rates.

The FCC seeks comments on whether quality services are being made available. In addition, it seeks comments whether there are appropriate measures which could help in the assessment of whether affordable service is being provided to all Americans.

The OCC addresses Oklahoma's assessment of what constitutes quality service in Section (3) of these comments.

The assessment of whether "affordable" service is being provided might require, at least, a two-step evaluation. A first step could be to define the characteristics of an affordable rate; the second, to develop a system by which to measure whether those criteria are being met.

The concept of affordable rates is nebulous at best. The description of Oklahoma's local telecommunications service providers, included in our Introduction, indicates the diversity of both end-users and the companies which provide them service. In order to maintain and advance universal service to these diverse end-users, many factors must be

considered. For example, if rates for basic telecommunications services increase significantly, existing and new end-users will explore all options for maintaining control over their costs. Some end-users may choose to limit the optional services to which they subscribe as a means of controlling their costs; other end-users may choose to limit the amount of long distance services they utilize as a method of limiting their costs; other end-users may choose to disconnect their wire-based telecommunications service entirely. The loss of revenues, as a result of end-users controlling their costs by limiting their optional and/or long distance services, may result in the need to charge more for basic local services, due to the loss of revenues from the optional and long distance services. This increase in rates for basic local services may, in turn, cause additional end-users to reevaluate the options for limiting their costs for telecommunications service.

Conversely, telecommunications service providers may explore options for cutting their costs for providing service if it becomes apparent that they are losing revenues as the result of customers seeking to control their costs for optional and/or long distance services. Methods to cut costs may include the deferment of maintenance of service equipment and/or the deferment of system upgrades. The resulting affects of these deferments may be lowering of the overall quality of service provided to customers.

The potential effects of decisions by both end-users and telecommunications service providers should be taken into consideration and thoroughly evaluated in determining whether quality services are being provided.

(2) ACCESS TO ADVANCED SERVICES. -- Access to advanced telecommunications and information services should be provided in all regions of the Nation.

The FCC seeks comment on which advanced telecommunications and information services should be provided. The FCC appears to recognize that various geographic areas may present different obstacles to the provisioning of effective access to those services.

The OCC supports the concept of universal access to advanced telecommunications services. Advanced services in remote areas are essential for the economic development of rural America. The high-tech capabilities required by industry are a necessity to attract new business to outlying areas, as well as keeping those which are already located there. Unnecessary barriers should not be allowed to prevent advanced services from being offered in all regions of the country.

Advanced telecommunications services can allow rural communities to have services that previously were unavailable due to a lack of resources. For example, distance learning technology can provide educational opportunities that augment those available in rural areas. Also, medical diagnostics that previously required the patient to travel to an urban area may be performed in a rural community through the use of telemedicine.

The FCC's rules need to be drafted so as to encourage rapid deployment of advanced telecommunications services to all areas of the country, without giving an edge to one telecommunications service provider over another. Although the demand for these services may be highest in populous areas, rural areas may have the greater need.

The Commission's initial definition of advanced services should be sufficiently broad

to consider the demographics of all geographic regions and the needs of various types of end-users. The Commission should also be cognizant that the services deemed to be advanced services today will surely continue to evolve.

(3) ACCESS IN RURAL AND HIGH COST AREAS. -- Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

The FCC seeks comment on how best to incorporate the diverse characteristics of urban areas, which vary in every region of the Nation, in considering their use of urban area service as a benchmark for comparative purposes.

The Commission should be mindful that the characteristics of, and therefore the requirements for, both urban and rural and high cost areas will vary from state to state. For instance, the demographics for Oklahoma's major urban areas are vastly different from the demographics of New York's or California's major urban areas. A comparison which assumed that these areas were similar would result in ineffective, and possibly costly, consequences.

The OCC supports the policy that all end-users in Oklahoma, including low-income subscribers and those in rural and high cost areas, have access to basic

telecommunications services. Additionally, the OCC supports comparable rates in an area for similar type services. In keeping with this general policy, certain local exchange companies have, for some time, offered Link-Up and low-use programs within Oklahoma.

The OCC, in Cause No. PUD 930000090, Order 380024, dated February 8, 1994, established new minimum service standards for all telecommunications services provided throughout Oklahoma. The revised minimum standards of service include:

- *one party service
- *elimination of outside of base rate area and zone charges
- *touch tone
- *availability to end-users to transmit data at fifty-six (56) kilobytes per second
- *availability of 911 and E911
- *custom calling features
- *availability of Custom Local Area Signaling Services (CLASS)
- *implementation of Lifeline

It is presumed, based on previous orders of the OCC and the recent filing of a NOPR for the state's universal service docket, that service to low-income subscribers and rural and high cost areas will continue to be a goal at the OCC.

(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS. -- All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

The determination of how and from whom to collect universal service contributions

to fund the provisioning of the services determined to be necessary will be fundamental to assuring that the Act's goals are met. The level of contributions must be sufficient to insure that adequate funding is provided to meet the statutory objectives.

In Rulemaking RM 950000019, which proposed rules and regulations for local competition in Oklahoma, the OCC established the Oklahoma Universal Service Fund. OAC 165:55-17-21 states that "every entity which provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, for the preservation and advancement of universal service in Oklahoma, in a manner established by the Commission" (emphasis added). The OCC filed a NOPR, RM 960000015, on April 3, 1996, for the purpose of addressing the state's universal service fund. The NOPR solicits comments on three major issues with a listing of questions under each issue. Two of the major issues to be addressed are (1) what constitutes universal service and (2) what subsidies, if any, are necessary to achieve universal service. Based on the OCC's approval of RM 950000019, and its submission to the Oklahoma Legislature for consideration and approval (on March 18, 1996), along with the filing of RM 960000015 regarding the state universal service fund, it is presumed that the OCC will continue to support equitable and nondiscriminatory contributions from all providers of telecommunications services in Oklahoma, both for the federal and state universal service funds.

Although Oklahoma will be determining who should contribute to the state universal service fund, the establishment of the federal fund must also take into consideration the current federal funding levels and support mechanisms. Any reduction in current federal

funding levels could dramatically thwart achievement of the Act's goals and objectives.

(5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS. -- There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

The OCC believes it is important to identify the support mechanisms for any federal and state universal service funds. The third major issue in the OCC's recent rulemaking (RM 960000015) addressing universal service will examine who should contribute to the state universal service fund and the criteria that should be used to determine an appropriate level of contribution from each contributor. In addition to contributions from traditional telecommunications service providers, the OCC also intends to examine whether intraLATA and interLATA resellers, operator service providers, intraLATA competitive access providers, interLATA competitive access providers and cellular companies should be required to make a direct contribution to the universal service fund.

The identification of specific and predictable support mechanisms for the universal service fund is necessary to ensure the stability required for the encouragement of developing new technologies and the offering of advanced services by those telecommunication service providers that will draw from the universal service fund.

As stated in our Introduction, Oklahoma has had funding mechanisms at the state level. The resulting funding only supplemented that received from the federal funding mechanisms. Oklahoma's rural telephone companies receive significant support from the current federal mechanisms. However, the Act broadens the definition of universal service

beyond that used for the support currently provided. It appears that a different, or at least a broader, mechanism may need to be contemplated. Whatever mechanism is established should insure that the current level of support will not be reduced or, if it is, that adequate funding from any new mechanism will supply no less than the current level of support.

(6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES. -- Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

The OCC supports the concept of ensuring that elementary and secondary schools and classrooms, health care providers, and libraries have access to advanced telecommunications services.

A wide-area telecommunications network known as the Oklahoma Government Telecommunications Network ("OGTN"), which consists of the telecommunications systems and networks of educational entities and agencies of state government.¹ OneNet, a statewide telecommunications network, which grew out of OGTN, has been developed to provide for a partnership between the state and telecommunications companies in order to coordinate a voice, video and data network. OneNet will be used by state colleges, universities, and certain vocational technology schools to serve as regional hubs. The resulting network can be used for statewide video, full motion interactive video and high

¹ Created by 62 O.S. 41.5 (m), Oklahoma Statutes.

speed Internet access for state governments, education, video conferencing and town meetings.

OneNet will receive additional support through the OCC's recent settlement with Southwestern Bell Telephone Company ("SWBT") in Cause No. PUD 890000662, in which SWBT agreed to provide, at no charge, beginning January 1, 1996, intraLATA long distance services to provide Internet connections to all public and private universities, colleges, high schools, libraries and vocational technology schools served by SWBT until OneNet connections become available or until January 1, 1999, whichever occurs first. In addition, to the extent that SWBT toll services are utilized by certain designated customers, SWBT will remit all applicable per-minute-of-use charges to the Intrastate Support Fund on all toll minutes of use.

In addition to contributions to OneNet, and pursuant to the settlement agreement, SWBT will contribute, no later than July 1, 1996, July 1, 1997 and July 1, 1998, \$1 million in each year to an education fund, to be administered by the State of Oklahoma, to allow educational institutions to purchase telecommunications services from SWBT and/or telecommunications equipment from SWBT or from other vendors for use in SWBT exchanges for distance learning.

Oklahoma's minimum service standards requiring telecommunication services providers to make available to end-users the capability to transmit data at fifty-six (56) kilobyte per second [which were established in Cause No. RM 930000090, Order 380024, and referenced in issue number (3) above] exceed the current fastest popular computer modems which transmit at a speed of 28.8 kilobyte per second, and serve to facilitate

access to advanced telecommunications services as well.

Oklahoma's OneNet system appears to be an advancement toward the goal established by the Act. However, the funding currently provided by SWBT is of a limited duration and should only be considered as a supplement to any support mandated by the FCC.

SUMMATION

In summation, the OCC believes the Commission should give due consideration to the diversity of geographic areas and of subscribers and the services necessary to meet their needs. Also, the FCC should be mindful of the federal universal service funding requirements of individual states and the need for continuation of that level of support.